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BEFORE THE
PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1D-2004-63790

NINA RENEE DUNN
1360 Matheson
South Lake Tahoe, CA 96150

A C C U S A T I O N

Physical Therapist No. PT9655,

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about February 6, 1980, the Physical Therapy Board issued Physical Therapist License Number PT9655 to Nina Renee Dum ("Respondent"). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2006, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board ("Board"), under the authority of the following sections of the Business and Professions Code ("Code").

4. Section 2660 of the Code states:

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

5. Section 2239 of the Code provides in relevant part that the use of any of any alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely, or more than one misdemeanor involving the use, or consumption of alcohol constitutes unprofessional conduct.

6. Section 2661.5 of the Code states in relevant part that:

“(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of investigation and prosecution of the case.”

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1 FIRST CAUSE FOR DISCIPLINE
2 (Conviction of a Crime)
3 [Bus & Prof Code § 2660(d)]

4 7. Respondent's license is subject to disciplinary action under sections
5 2660(d), of the Code in that on or about February 17, 2004, respondent suffered a misdemeanor
6 conviction for a violation of Vehicle Code section 23152(a) (driving a vehicle while under the
7 influence of alcohol) in El Dorado County Court case number SC-04-000133-0001 and was
8 sentenced to serve four years summary probation, ordered to serve ten days in the county jail,
9 ordered to pay a fine of \$2222, ordered to have a restricted driver's license for ninety days, and
10 ordered to attend the First Offender drinking driver program.

11 The underlying circumstances were that on January 19, 2004, a South Lake
12 Tahoe Police Officer observed respondent drive a vehicle through a red light. After respondent
13 was stopped and arrested by South Lake Tahoe Police, she gave a blood sample that revealed a
14 blood alcohol level of .20 percent.

15 SECOND CAUSE FOR DISCIPLINE
16 (Conviction of a Crime)
17 [Bus & Prof Code § 2660(d)]

18 8. Respondent's license is subject to disciplinary action under section
19 2660(d) of the Code, in that on or about December 21, 2004, respondent suffered two
20 misdemeanor convictions, for a violation of Vehicle Code section 23152(a) (driving a vehicle
21 while under the influence of alcohol), and Penal Code section 148(a) (resisting arrest), in El
22 Dorado County Court case number S04CRM1585, and was sentenced to four years probation,
23 ordered to serve ten days in the county jail, ordered to pay a fine of \$2222, ordered to have a
24 restricted driver's license for one year, and ordered to attend the drinking driver program, level 2.

25 The underlying circumstances were that on November 21, 2004, an El
26 Dorado County Sheriff observed respondent drive a vehicle that swerved in its lane three times.
27 After respondent was stopped and arrested by the Sheriff Deputy, and transported to to jail,
28 respondent refused to complete a breath test after blowing a .28 percent on the first attempt. In
addition, respondent kicked a Correctional Sergeant in the right lower leg.

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THIRD CAUSE FOR DISCIPLINE

(Conviction of a Crime)

[Bus & Prof Code §§ 2660(i) and 2239]

9. Complainant re-alleges paragraphs 7 and 8 above, and incorporates them herein by reference as if fully set forth at this point.

10. Respondent's license is subject to disciplinary action under sections 2660(i) and 2239 of the Business and Professions Code in that respondent used alcoholic beverages to the extent as to be dangerous or injurious to the licensee or others or to impair the ability of the licensee to practice medicine safely, or has more than one misdemeanor involving the use, or consumption of alcohol constitutes unprofessional conduct.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board issue a decision:

- 1. Revoking or suspending Physical Therapist License Number PT9655, issued to Nina Renee Dunn;
- 2. Ordering Nina Renee Dunn to pay the Physical Therapy Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: July 29, 2005.

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California

Complainant